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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 9 OF THE CONVENTION

Twelfth periodic report of States parties due in 1995

Addendum

MAURITIUS*

[27 November 1995]

Introduction**

1. This report deals with the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, adopted by the General Assembly of the United Nations on 21 December 1965 and ratified by Mauritius on 29 June 1972.

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* This document contains the eighth, ninth, tenth, eleventh and twelfth periodic reports due on 29 June 1987, 1989, 1991, 1993 and 1995 respectively. For Mauritius' seventh report and the summary record of the meetings at which the Committee considered that report, see documents CERD/C/131/Add.8 and CERD/C/SR.782 and 792.

The information submitted by Mauritius in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the basic document HRI/CORE/1/Add.60.

** The annexes to this report are available for consultation in the files of the Secretariat.

2. This report constitutes the eighth, ninth, tenth, eleventh and twelfth periodic reports under article 9, paragraph 1, of the Convention. It is drafted in the light of the general guidelines regarding the form and content of reports to be submitted by States parties under article 9 of the Convention, prepared by the Committee on the Elimination of Racial Discrimination.

I. GENERAL

3. Mauritius is an island of 720 square miles with a population estimated to be about 1.2 million. The last population census took place in 1990 when the total population amounted to 1,056,660. There is no native Mauritian and the population is composed of immigrants who came from India, Africa, Malagasy, China and Europe.

4. The pluriethnic background of the population finds its roots in the history of Mauritius.when the country was under the occupation of the French and, subsequently in 1810 of the British Empire. After the emancipation of African and Malagasy slaves, indentured field labourers were brought from India. Their descendants now form a majority of the population alongside the so-called "general population", Muslims and persons of Chinese origin. The "general population" is composed of persons of Creole and European origins. They are mostly Christians. The last two population censuses, which were carried out in 1983 and 1990 respectively, do not indicate a breakdown of the population on a communal basis in line with government policy to promote a Mauritian identity amongst its people regardless of the ethnic background of the inhabitants of the island (see annex 1).

5. There exists in Mauritius a parliamentary democracy led by a Prime Minister assisted by a Council of Ministers. The head of State is the President who is elected by a majority of all members of the Assembly on a motion made by the Prime Minister. The State of Mauritius holds free and fair national and local elections at regular intervals, supervised by an independent Electoral Commission.

6. The National Assembly consists of 70 members of whom 62 are elected and the remaining 8 are selected from among the best losers at the elections on a communal and party basis. The best loser system was adopted when Mauritius achieved its independence in 1968 having as its objective a fair representation of all ethnic cross-sections of the population in the National Assembly.

7. A major source of legal protection against discrimination, racial or otherwise, is the Mauritian Constitution.

8. Under section 1 of the Constitution it is provided that Mauritius shall be a sovereign democratic State. When read in the light of the other existing provisions under the Constitution this implies that Government has a duty to make the principles of democracy the norm in all areas of society and to promote opportunities to enable each component of the population to preserve his own cultural and community, including ethnic, linguistic and religious, life.

9. Similarly, chapter II of the Constitution, which guarantees the fundamental rights and freedoms of the individual, requires the courts, administrative authorities and all those who work in public administration to respect the equality of everyone before the law and act with objectivity and impartiality.

10. Under section 3 of the Constitution it is specifically provided that all citizens shall have access to human rights and fundamental freedoms without discrimination by reason of race, place of origin, political opinion, colour, creed or sex. This provision is further reinforced by section 16 which provides that no law shall be discriminatory on the ground of race, caste, place of origin, colour, creed or sex.

11. The fact that the prohibition of discrimination is guaranteed by the Constitution is significant in that:

(a) Any person whose rights have been contravened under chapter II may seek redress to the Supreme Court under section 17 of the Constitution;

(b) The guarantees afforded by the Constitution are such that they cannot be taken away without the cumbersome process of securing a three-quarter majority vote in the National Assembly;

(c) The Constitution being the "supreme law of the land", it is the duty of the Supreme Court not only to interpret but also to enforce obedience to its provisions. Any statutory law which is inconsistent with the provisions laid down in the Constitution shall be treated as having no legal effect and declared null and void by the Supreme Court.

12. The Convention itself can be resorted to should the occasion arise and any matter connected therewith may be referred to the courts of the country in addition to or exclusive of the existing provisions of the law. The provisions of the Convention are of a persuasive character in view of the frequent pronouncements of the courts emphasizing the importance of respecting and adhering to international obligations contracted by the State of Mauritius. The recent decision of the Supreme Court in the case of Pointu v. The Minister of Education and Science (1995 SCR No. 53810) illustrates the willingness of the courts to decide an issue involving fundamental rights and freedoms in harmony with international human rights instruments.

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

13. Following the recent decision of the full bench of the Supreme Court in the case of Pointu v. The Minister of Education and Science (see annex 2), it is now an established legal principle that both sections 3 and 16 of the Constitution must be given a generous and purposive construction and read in the light of section 1 (supra).

14. A proper reading of section 1, which provides that Mauritius shall be a sovereign democratic State, clearly means that the State of Mauritius is to be administered in accordance with the other provisions of the Constitution which contain the essence of democratic principles.

15. Furthermore, it can be gathered from the same decision that the concept of equality before the courts and equal protection of the law as laid down under section 3 of the Constitution has always existed in the laws of Mauritius as far back as 1793 when the French Constitution of 1789 was made applicable to Mauritius.

16. Section 16, which prohibits the passing of any law that is discriminatory of itself or in its effect, is subject to certain exceptions under section 16 (5). Those exceptions do not in any diminish the constitutional status of section 16 as all constitutional rights are subject to the enjoyment of their constitutional rights by others and to the higher interest of the State (sect. 3).

17. Under section 10 of the Constitution, which makes similar provisions and offers similar guarantees to article 26 of the International Covenant on Civil and Political Rights, to which Mauritius is a signatory, it is worth mentioning the following provisions in relation to the present Convention:

(a) The right of a person charged with a criminal offence to have a fair hearing within a reasonable time by an independent and impartial tribunal established by law (sect. 10 (1));

(b) The right of an accused party to be informed as soon as is reasonably practicable, in a language that he understands, of the nature of the offence (sect. 10 (2) (b));

(c) The right to have, without payment, the assistance of an interpreter if he cannot understand the language of the trial of the offence (sect. 10 (2) (f)).

18. Furthermore, section 11 of the Constitution guarantees that no person shall be hindered in the enjoyment of his freedom of conscience. "Freedom of conscience" includes freedom of thought and of religion, freedom to change religion or belief including the freedom to manifest and propagate his religion or belief in worship, teaching, practice and observance.

19. Section 12 of the Constitution guarantees the freedom to hold opinions and to receive and impart ideas and information without interference (subject to being reasonably justifiable in a democratic society).

20. More importantly, under section 14 (1) of the Constitution it is provided that no religious denomination and no religious, social, ethnic or cultural association shall be prevented from establishing and maintaining schools at its own expense subject to subsection (2) which limitatively sets down conditions and circumstances where the religious group can be prevented from doing so, e.g. in the interests of public order.

21. Under section 17 of the Constitution, as already mentioned, an aggrieved citizen may apply to the Supreme Court for redress where any of the rights guaranteed in chapter II (annex 3) has been contravened. Section 17 (2) provides that the Supreme Court may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of sections 3 to 16, to the protection of which the person concerned is entitled.

22. A citizen may also file a complaint through the police authorities under section 77 of the Criminal Code where a public officer commits any arbitrary act amounting to an abuse of authority prejudicial either to individual liberty or civic rights or to the Constitution. The section provides, on a finding of guilt, for imprisonment or a fine not exceeding 3,000 rupees.

23. In the framework of its continuing policy aimed at the elimination of all forms of discrimination, the Government in July 1991 enacted section 282 of the Criminal Code (annex 4) to make it an offence for any person who with intent to stir up contempt or hatred against any section or part of any section of the public distinguished by race, caste, place of origin, colour or creed:

(a) Publishes or distributes any writing which is threatening, abusive or insulting;

(b) Uses in any public place or at any public meeting or procession any gesture or word which is threatening, abusive or insulting; or

(c) Broadcasts any matter which is threatening, abusive or insulting.

24. It must be noted that the Constitution has vested the Director of Public Prosecutions with the power to institute, take over or discontinue criminal proceedings before a court of law. In the exercise of his powers the Director of Public Prosecutions is not subject to the direction or control of any other person or authority (sect. 72 of the Constitution).

25. Subject to the powers of the Director of Public Prosecutions, any citizen may have resort to a private prosecution under sections 4 and 5 of the Criminal Procedure Act.

26. In addition to the normal channels of complaint through the police authorities citizens of the Republic of Mauritius may have recourse to the office of the Ombudsman. Section 97 of the Constitution provides as follows:

> "[...] the Ombudsman may investigate any action taken by any officer or authority to which this section applies in the exercise of administrative functions of that officer or authority, in any case in which a member of the public claims or appears to the Ombudsman, to have sustained injustice in consequence of maladministration in connection with the action so taken and in which:

"(a) A complaint under this section is made;

"(b) He is invited to do so by any Minister or other member of the Assembly; or

"(c) He considers it desirable to do so of his own motion."

27. Mention must also be made of the important role played by the media. Freedom of expression is protected under section 12 of the Constitution and this is largely reflected in practice. The media itself are represented by a dozen of privately owned daily, weekly and monthly newspapers airing political viewpoints and freely expressing partial, controversial and partisan views. The press is reputed to be independent of any governmental influence and at times highly critical. Human rights organizations contribute towards the democratic process by making authorities accountable for any abuse or unfair treatment which may result from their dealings with the citizen.

28. The national radio and television station play a major role in promoting racial harmony and transmit programmes, in addition to English and French, in languages spoken by the various communities, namely, Hindu, Urdu, Mandarin, Tamil, Telegu, Marathi and Creole.

29. Abuse of the freedom of expression may lead to prosecution of the editor, the publisher and the author of a publication under the Criminal Code. Where the issue or publication of material would be likely to lead to unlawful violence or appears to have the object of promoting feelings of hostility between different classes of the community, a judge or a magistrate shall issue a prohibition order to prevent such issue or publication (annex 5).

30. Prior censorship of the press, radio and television by public authorities is prohibited, but under the Cinematograph Act, the Board of Censors may censor or approve films and videotapes which are to be shown in public.

31. There has not been any reported case of racial discrimination since the last report. However, last year the Government felt it necessary to ban the sale and circulation of a book entitled The Rape of Sita on the grounds that it could incite racial conflicts.

Article 3

32. As mentioned in the last report the Republic of Mauritius condemns racial segregation and apartheid and prohibits any practices of this type in its territory. As a member of the Non-aligned Movement, of the Commonwealth and of the Organization of African Unity and as a signatory to the African Charter of Human and People's Rights, Mauritius has forcefully condemned apartheid as practised in South Africa. With the advent of abolition of apartheid in the Republic of South Africa, Mauritius established consular and later diplomatic relations with the Republic of South Africa.

Article 4

33. In July 1991 the Government introduced the Public Gathering Act 1991. The Act (annex 5) gave powers to the Commissioner of Police to prohibit a public meeting or procession where he reasonably believes that meeting or procession is likely to cause public disorder (sect. 4). Any person aggrieved by the decision of the Commissioner may appeal to the Judge in Chambers in the Supreme Court to have the order issue quashed (sect. 4).

34. There is no reported instance whereby the decision of the Commissioner has been overruled by the Supreme Court.

35. As stated earlier, the Act also makes it an offence punishable by penal servitude for a term not exceeding 10 years against an offender who stirs up racial hatred (sect. 19).

36. There is no reported instance of an offence being committed under section 282 of the Criminal Code.

Article 5

Right to equal treatment before tribunals

37. This right is guaranteed by section 10 of the Constitution (annex 3).

38. It must also be noted that under the Mauritian legal system an accused person is presumed to be innocent and is not compelled to give evidence at the trial or to answer questions being asked by the police at the inquiry stage.

39. The doctrine of separation of powers guarantees the independence of the judiciary.

40. Hearings take place in open court except in the cases prescribed by law.

Security of person

41. It is provided under section 7 (1) of the Constitution that "No person shall be subjected to torture or inhuman or degrading punishment or other such treatment." It is a criminal offence to use or to attempt to use any violence or threat of violence on the person of any individual, as provided, inter alia, by section 215 et seq. of the Criminal Code which deal with all forms of offences against the individual.

42. By the same token, the corresponding sanctions provided by law with regard to each offence are stipulated. The State usually undertakes the criminal prosecution of such offences and the aggrieved parties are left with the added option of instituting civil action in damages to obtain appropriate compensation for the interference with their rights.

43. The Criminal Code also treats as crimes and prescribes penalties to the following acts by a public official:

(a) Any public functionary entrusted with the administrative or judicial police, or any person having the custody of a prisoner who refuses or neglects to pay due regard to any demand tending to prove illegal or arbitrary any detention, whether in any house destined for the custody of persons under detention or elsewhere, and who does not prove having reported such detention to his superior officer, shall be subject to the punishment specified in section 77, i.e. imprisonment or a fine not exceeding 3,000 rupees;

(b) Any jailer or keeper of a jail, prison or house of correction, who (a) receives a prisoner without warrant or sentence or who refuses upon demand to deliver to the prisoner a copy of the order under which the prisoner was delivered over to him; (b) detains or refuses to produce the prisoner to any judicial or police officer entitled to demand the appearance of the prisoner, without proving a prohibition from the Director of Public Prosecutions; (c) refuses to exhibit his register to any judicial or police officer, shall be guilty of arbitrary detention, and be liable to imprisonment or to a fine not exceeding 2,000 rupees;

(c) Any functionary of an administrative or judicial body, or any judicial or police officer or any civil or military authority acting in such capacity, who enters the domicile of another person against the will of that other person, except in cases provided by law, and without complying with the prescribed formalities, shall be punished by a fine not exceeding 1,000 rupees, and by imprisonment for a term not exceeding six months.

44. The police, for their part, have a duty to act in accordance with the Judges' Rules and Administrative Directions to the Police, which provide a useful guide to the police for the interviewing of suspects and in recording their statements.

Political rights

45. This right is guaranteed under chapter V of the Constitution (annex 3).

46. The right of access on terms of equality to public office and the management of public affairs is guaranteed without distinction of race, colour, creed, sex or political opinion.

47. The recruitment of candidates to work in the public service, including the police force, is effected by independent democratically constituted commissions.

Right to freedom of movement within the country

48. Subject to certain restrictions under section 15 (3) of the Constitution, no person is deprived of his freedom to move freely throughout Mauritius.

Right of nationality

49. In view of various difficulties encountered by women non-citizens married to Mauritian citizens and persons who hold dual nationality, the Mauritius Citizenship Act was amended in August 1995 (annex 7).

50. The Mauritius Citizenship (Amendment) Act 1995 provides that a non-citizen married to a citizen of Mauritius may be registered as a citizen of Mauritius if he satisfies the Minister that he has been living with his spouse under the same conjugal roof for a period of not less than four years for a period immediately preceding his application (sect. 4 (2)).

51. Similarly, section 15 of the Mauritius Citizenship Act was repealed to enable those persons who are citizens of Mauritius and of some other country to become a citizen of Mauritius without the need to renounce the nationality or citizenship of the other country (sect. 15).

52. Where the person is not ordinarily resident in Mauritius, he may make an application for registration to the Minister who may on his discretion grant the application.

Right to marriage

53. The right to marry and choose a spouse is based on the right which every individual enjoys by virtue of the enjoyment of his fundamental rights and freedoms under the Constitution as long as he does not violate the rights or freedoms of others, public order or public morals. Marriages are contracted, dissolved or annulled according to the provisions of the Civil Status Act and the Civil Code which substantially follows the provisions of the French Civil Code.

54. The authorities have the duty to respect and defend the homes, family life and privacy of Mauritian citizens (sects. 4 and 9 of the Constitution).

Right to property

55. Under the provisions of the new Dangerous Drugs Act 1995, an accused person shall not dispose of his assets or make any withdrawals from any account or deposit at any bank or financial institution pending the trial. On a finding of guilt, subject to the determination of an appeal, the Director of Public Prosecutions shall refer the matter for inquiry to the Commissioner.

56. The Director of Public Prosecutions may, upon receipt of a report, apply to the Supreme Court for an order for the forfeiture of the possessions of the convicted person or any member of his family.

Right to inherit

57. The right to inherit is governed by the Civil Code which lays down the procedures for inheritance according to law and by testament, the rules of succession and the conditions for acceptance and renunciation of succession (art. 718 et seq. of the Civil Code). Under article 727 of the Civil Code, a convicted person who has killed or attempted to kill the deceased, an heir of

full age having knowledge of the murder of the deceased and failing to report it to judicial authorities and a person who has levelled a false and malicious accusation against the deceased are barred from succession.

Right to freedom of thought, conscience and religion

58. The Constitution guarantees freedom of conscience, on terms of equality, without distinction as to race, nationality or ethnic origin (sect. 11). The right to freedom of thought and opinion, and freedom of religion can only be restricted in specific circumstances, e.g. in the interests of defence, public order (sect. 11 (5)). Section 11 also provides that no person may be forced to adopt an opinion or a religious belief contrary to his convictions. Parents and guardians have the right to ensure, in accordance with their own convictions, the religious instruction which a child attending a place of education shall receive.

Right to freedom of opinion and expression

59. In the case of R. v. Boodhoo & Anor (1990 MR 191), the appellants challenged the constitutionality of section 299 of the Criminal Code in the light of section 12 of the Constitution. In that case, the two accused were charged respectively with diffusing and publishing false news which was of a nature to disturb the public peace. The issue was whether the requirements placed on the accused by section 299 (1) amounted to a derogation from the right of a citizen to freedom of expression which was not reasonably justifiable in a democratic society. It was conceded by Counsel for the applicant that:

(a) The objective of any limitation on the guaranteed constitutional right must be of sufficient importance; and

(b) The means chosen must be reasonable and demonstrably just.

60. The Court held that section 299 (1) deals with the diffusion or publication of news which is false or which, though true, in substance has been altered or falsely attributed to another person, where the publication or diffusion is of such a nature as to disturb public order or peace. It is an area where the objective of the limitation on the guaranteed constitutional right of freedom of expression is of sufficient importance and the means chosen are reasonable and demonstrably justified.

Right to work and right to form and join trade unions

61. The right to form and become a member of a trade union is protected both in the Constitution (sect. 13) and in the Industrial Relations Act.

62. The expanding economy coupled with the demographic trends have resulted in a tight labour market situation. In the building sector and the Export Processing Zone the shortage of labour has had to be met by recruiting foreign workers. The labour constraints are, however, seen as a temporary phenomenon as the country launches a more technology-oriented industrialization.

63. The table below indicates the number of registered unemployed persons between 1982-1993:

Unemployment	Men	Women	Young persons	Disabled person
December 1982	49 875	20 938	4 316	N.A.
December 1988	15 551	7 403	480	508
December 1993	2 612	4 495	144	295

N.B.: The total unemployment for 1993 represented less than 2 per cent of the labour force.

64. Industrial relations have been marked by continued dialogue and consultation among trade unions, employers' organizations and government agencies in a true spirit of tripartism. The table below indicates the number of work stoppages over the period 1989-1991:

	Work stoppages	Workers involved	Man-days lost
1989	15	4 472	14 720
1990	8	1 700	3 136
1991	6	426	122

65. Wage-earners are entitled to the social protection of labour under the following Acts: Labour Act; Industrial Relations Act; Occupational Safety, Health and Welfare Act 1988; Export Processing Zones Act; Workmen's Compensation Act; Industrial Courts Act.

66. Industrial disputes regarding wages and conditions of work are referred to the Permanent Arbitration Tribunal (PAT) or the Industrial Court. There also exists institutions such as the Industrial Relations Commission to promote good industrial relations and the National Remuneration Board (NRB) to review wages in certain specific sectors.

67. The Government intends in the near future to review the provisions of the Industrial Relations Act and to provide for a less cumbersome procedure for the settling of industrial disputes.

68. The Workers' Education Unit has successfully completed the first phase of a National Workers' Education Programme during the period 1988-1991. Under this phase, more than 1,000 trade union leaders were trained through workshops.

69. The Export Processing Zone Labour Welfare Fund established by law has implemented a balanced and diversified welfare package. The Fund has placed special focus on:

(a) Setting up day-care centres in regions of localized EPZ labour;

(b) Providing interest-free loans for the purchase of essential household items so as to improve the quality of living;

(c) Granting scholarships to children of workers;

(d) Providing health support services through the setting up of a health centre at the Industrial Estate;

(e) Creating new avenues for leisure management through regular activities in the field of sports and recreations.

70. The passing of the Occupational Safety, Health and Welfare Act in November 1988 was an important landmark in the promotion of a safe and healthy work environment at workplaces. From the figures available industrial accidents declined from 13,777 in 1989 to 10,234 in 1991.

Right to housing

71. The latest housing census shows that in 1990 there were 223,821 housing units in the State of Mauritius out of which 216,011 were in the island of Mauritius.

72. The urban areas account for 43 per cent of the housing stock. But when the peri-urban areas are taken into account, the total percentage of housing units in the urban and peri-urban zones goes up to 51.6 per cent of the total housing.

73. The number of homeless persons are estimated to be around 150. The Ministry of Social Security has implemented a project jointly with the Abbé Pierre Foundation to provide shelters to the homeless.

74. In 1989, the Government delivered Housing Development Certificates with a view to providing incentive to building companies and housing promoters wishing to construct flats for lower and middle income groups. Companies holding Housing Development Certificates were entitled to reduce corporate tax, exemption from income tax for eight years, exemption from import duty and import levy on construction equipment and building materials, part remission of registration duty and land conversion tax. Furthermore, those companies are eligible to obtain loans from the Development Bank of Mauritius and the Mauritius Housing Corporation.

75. In 1992, a private company, the National Housing Development Company Ltd. (NHDC), was set up to act as the executive arm of Government in the housing sector. It was provided with Rs 200 million as seed capital to enable it to embark on a series of large-scale projects for low and middle income groups, with the Government bearing the cost of land and basic on-site and off-site infrastructure (water, sewerage, roads and electricity).

76. The NHDC has to date built 2,030 housing units in three-storey blocks and will complete during the course of the year (1994) another 1,360 units. The housing units are meant primarily for the income groups drawing between Rs 3,000-Rs 4,000 and Rs 4,000-Rs 6,000 per month.

77. It should be observed here that to further facilitate access to NHDC housing, the Government decided in February 1994 to lower down-payments as follows:

Salary	Down payment
Less than Rs 4,000	Rs 5,000
Rs 4,000 to Rs 6,000 price	5% of housing unit sale
More than Rs 6,000	10% of housing unit sale

Government has further changed loan repayment facilities from the monthly equated instalments to the progressive repayment system for beneficiaries drawing less than Rs 6,000 monthly.

78. Apart from the National Housing Development Programme assigned to the NHDC, Government has allocated during the period 1984-1993, 1,340 building site leases to enable very low-income people to build their own individual houses. It should also be pointed out that by December 1991, Government had approved 1,298 leases to squatters, thereby regularizing their hitherto illegal occupation of State lands.

Right to health and social security

79. The medical care provided by the State health services is free of charge for all citizens of Mauritius without any distinction. In addition to State hospitals and private clinics, the large majority of the population have access to trained personnel for the treatment of common diseases and injuries with regular supply of all essential drugs. Health centres are easily accessible and within walking distance.

80. Under section 94 of the Constitution, the National Pensions Act and the Statutory Bodies Pensions Act, all wage earners in the public service have the right to a pension. Those persons employed in the private sector have their own pension scheme.

81. The Training and Employment of Disabled Persons Act is about to be enacted to prevent, inter alia, discrimination against disabled persons resulting from or arising out of their disability. Under the proposed Act, it would be an offence for an employer to discriminate against any disabled person in relation to the advertisement of and recruitment for employment, the determination or allocation of wages, salaries, pensions and any other matter related to employment.

Right to education and training

82. The right to education and training is guaranteed through compulsory general education under the Constitution and the Education Act for all the country's children through secondary education and vocational training and through university and post-university training.

83. State education up to university level is free in the Republic of Mauritius.

84. Under section 37 of the Education Act, it is an offence for a parent who without reasonable cause refuses or neglects to cause his child to attend school regularly or to receive suitable and efficient instruction and comments.

85. The Industrial and Vocational Training Board, a statutory body, was set up in April 1988, inter alia to promote, assist in and regulate the training or apprenticeship of persons who are or will be employed in commercial, technical and vocational fields.

86. There are 281 primary schools for a school population of 125,000 aged five to 12. Admission to State primary schools is based on a catchment area system whilst admission to the secondary schools is based on performance at the Certificate of Primary Education (CPE).

Right to participate in cultural activities

87. The exercise of this right is guaranteed under chapter II of the Constitution.

88. Mauritian society has the advantage of being pluri-cultural and pluri-lingual, creating a unique opportunity to produce a symbiosis of cultures.

89. The Government is fully committed to giving new dimensions to all cultural forms and expressions to ensure unity in diversity. In that context, the Government has extended support in the form of land and other facilities to enable the establishment of the following institutions: Indira Gandhi Cultural Centre (to promote Indian culture); Chinese Cultural Centre; Islamic Cultural Centre; African Cultural Centre.

90. A National Drama Festival has been held every year for the last 50 years. The festival is presently held in 10 languages, namely English, French, Hindi, Bhojpuri, Tamil, Telegu, Marathi, Mandarin, Urdu and Creole.

91. The Mauritius Film Development Corporation set up in 1986 promotes, inter alia, the holding of film festivals to cater for the cultural and linguistic needs of the people of Mauritius.

Article 6

92. As already mentioned, the Constitution, the Criminal Code and the Code of Civil Procedure, as well as the organization and functioning of the courts, guarantee equal and effective protection for every person against the violation of his individual rights and fundamental freedoms.

93. Any person whose rights have been infringed by an act of racial discrimination may seek redress as follows:

(a) Under section 17 of the Constitution, inviting the Supreme Court to make such orders, issue such writs and give such orders as it may consider appropriate;

(b) By lodging a complaint with the police authorities where the act constitutes an offence under the Criminal Code;

(c) By filing a complaint with the Ombudsman;

(d) By way of judicial review to quash the decision of a public body;

(e) By entering an action before the Industrial Court to seek compensation at a punitive rate;

(f) In addition, an aggrieved person may seek damages before the courts by way of redress.

94. Any person who is dissatisfied with a judgement on the merits may lodge an appeal before a higher court. The right of interested parties to avail themselves of the legal means of contesting judicial decision is guaranteed by the Constitution (sects 80 and 81). It is to be noted that an appeal lies from the decisions of the Court of Appeal to the Judicial Committee of the Privy Council in matters where the question involved in the appeal is one of great general or public importance.

Right of access to any place or service intended for use by the general public

95. All Mauritian citizens and all aliens residing in or visiting Mauritius enjoy all services intended for the public on a footing of equality.

Article 7

96. As already mentioned, under section 11 of the Constitution no person is compelled to receive religious instruction against his will when he attends a place of education, the more so if that instruction relates to a religion that he does not profess. Further, the Constitution provides for the freedom to disseminate religious instruction in the course of any education that is provided. The above tallies with the provision of section 14 (1) of the Constitution which stipulates that no religious denomination and no religious, social, ethnic or cultural association or group shall be prevented from establishing and maintaining schools at its own expense.

97. Section 14 has been made the subject of judicial pronouncement in the case of Roman Catholic Diocese of Port Louis v. The Minister of Education (1991 MR 176). The Supreme Court ruled that when it comes to denominational schools, there is a need to protect their constitutional right to the protection of the law, and to freedom of expression and conscience, through their particular vision of education. The State even assists financially these denominational schools in their endeavours. But that does not make employees in these schools public officers merely because the State assists them financially. (see Government Teachers' Union v. Roman Catholic Education Authority (1987 MR 88).

98. Besides the above, which are constitutionally entrenched provisions to combat prejudices which lead to racial discrimination in the area of education and teaching, since August 1991 a Master Plan on Education for the Year 2000 has been elaborated. In the new Plan, provision is made to teach subjects to further foster understanding, tolerance and friendship among nations and racial or ethnic groups. Amongst these subjects are education in human values and education for a better life. Provision is also made for pastoral care and education welfare work. It has been argued that when proposals in the Plan are implemented, there has nevertheless to be a periodical review in the light of changing circumstances. The year 1995 having been proclaimed United Nations Year of Tolerance, a nation-wide debate has been launched about the purport of tolerance in such a pluralist society as Mauritius.

Culture

99. Section 13 of the Constitution provides for the protection of the freedom of assembly and association. Subject to section 14, cultural associations may be formed with a view to promoting their particular interests unless what is done is not reasonably justifiable in a democratic State. Not only does the State protect the above right but it also encourages and even sponsors activities of cultural associations. In this respect the Government in 1991 set up a ministerial portfolio to look after arts and culture in Mauritius. In all its activities the Ministry encourages participation from Mauritians irrespective of their ethnic or racial origin. Participants come from every walk of life. Every year in May a Music Day and a National Arts Day are organized to promote understanding among Mauritians. Debating competitions and play-writing competitions are organized by the Ministry for schools, for clubs and for the public in general in the context of Human Rights Day and this year more specifically in the context of the fiftieth anniversary of the United Nations.

100. In furtherance of the protection of fundamental human rights, the promotion of intra-national and intra-cultural understanding, tolerance and friendship, various non-governmental organizations get financial and logistical support from the Ministry for Arts and Culture.

101. In so far as electronic mass media are concerned, under the Mauritius Broadcasting Corporation Act 1982, section (4) (f) provides that one of the objects of the Corporation is to strike a fair balance in the allocation of broadcasting hours among various educational, cultural, political and religious standpoints. Further, the Corporation has as an objective to provide independent and impartial broadcasting services of information, education, culture and entertainment in Creole, Bhojpuri, French, Hindustani, English and other languages spoken or taught in Mauritius. The aim of the Corporation is to cater for the aspirations, needs and tastes of the Mauritian population in matters of information, education, culture and entertainment.